

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA)	
)	
vs.)	No. 07 CR 50067
)	Judge Frederick J. Kapala
JOAN JARRETT)	

**UNITED STATES' MOTION FOR LEAVE TO FILE
INSTANTER ITS RESPONSE TO DEFENDANT'S
MEMORANDUM ON SENTENCING AND MOTIONS
FOR DOWNWARD DEPARTURE AND VARIANCE**

The UNITED STATES OF AMERICA, by PATRICK J. FITZGERALD, United States Attorney for the Northern District of Illinois, moves this Court for leave to file *instanter* its response to defendant's Memorandum on Sentencing ("Memorandum") seeking downward departures because of her age and an "overstated risk of recidivism," along with a request for a variance pursuant to *United States v. Booker*, 543 U.S. 220 (2005), and states.

1. On December 18, 2007, after the defendant pleaded guilty, this Court entered an order setting sentencing for April 4, 2008, and requiring that any motions for a downward departure or variance from the advisory Guidelines range were to be filed no later than 14 days prior to sentencing, with any response due 7 days prior to sentencing. No motions were filed on March 21, 2008, 14 days prior to sentencing.

2. The defendant's Memorandum was filed on March 24, 2008. However, by early that morning, the government's counsel had left the office for a one week training opportunity, unaware that the defendant had filed her Memorandum.

3. Upon his return to the office on March 31, 2008, the government's counsel learned not only of the filing of the Memorandum, but that it actually constituted a motion for a downward departure and a request for a *Booker* variance.

4. The government does not object to the filing of the Memorandum, but asks that it be permitted to file a response.

Conclusion

For the reasons set forth above, the government asks that the Court allow it to file *instantly* its response to defendant's Memorandum.

Respectfully submitted,

PATRICK J. FITZGERALD
United States Attorney

BY: /s/ John G. McKenzie
JOHN G. McKENZIE
Assistant United States Attorney
308 West State Street - Room 300
Rockford, Illinois 61101
(815) 987-4444

CERTIFICATE OF SERVICE

The undersigned Assistant United States Attorney hereby certifies that in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR5.5, and the General Order on Electronic Case Filing (ECF), the following document:

**United States' Motion for Leave to File
Instantly its Response to Defendant's
Memorandum on Sentencing and Motions
for Downward Departure and Variance**

was served on April 1, 2008, pursuant to the district court's ECF system as to ECF filers, if any, and a copy was hand-delivered on April 1, 2008, to the United States Probation Office.

/s/ John G. McKenzie

JOHN G. McKENZIE
Assistant United States Attorney
308 West State Street - Room 300
Rockford, Illinois 61101
(815) 987-4444